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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

BECKI RITTERMAN,

Case No.

Plaintiff,

v.

DERRICK MC GAVIC dba LAW  
OFFICES OF DERRICK MC GAVIC;

COMPLAINT FOR VIOLATION OF  
FAIR DEBT COLLECTION  
PRACTICES ACT; and VIOLATION  
OF THE OREGON UNLAWFUL  
DEBT COLLECTION PRACTICES  
ACT; and CONVERSION, FRAUD, and  
BREACH OF CONTRACT

Defendant.

JURY REQUESTED

JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d), and pursuant to 28 U.S.C. § 1367 for pendent state law claims.
2. This action arises out of Defendant's violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), as well as other state law tort claims.
3. Venue is proper in this District because the acts and transactions occurred here,

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#26017

Plaintiff resides here, and Defendant transacts business here.

#### PARTIES

4. Plaintiff Becki Ritterman is a natural person who resides in the City of Portland, State of Oregon, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

5. Defendant Derrick Mc Gavic dba Law Offices of Derrick E. Mc Gavic (hereinafter "Mc Gavic") is an attorney operating from an address of 1666 W 12th Ave., Eugene, OR 97440 and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

#### FACTUAL ALLEGATIONS

6. Plaintiff borrowed money from Capital One Bank for Plaintiff's personal use.

7. Plaintiff defaulted on her payments to Capital One Bank.

8. Mc Gavic filed suit against Plaintiff on behalf of Capital One Bank on December 12, 2007.

9. McGavic entered into an accord and satisfaction with Plaintiff concerning the debt. The contract dated January 24, 2008 provided the debt be paid via automated pre-authorized checks drawn monthly from Plaintiff's Bank of America account in the amount of \$100.00 per month.

10. McGavic withdrew \$100.00 on January 30, 2008 and \$100.00 on February 28, 2008.

11. Plaintiff's Bank of America account balance was over \$100.00 at all times during March 2008.

12. McGavic did not withdraw any funds in March 2008 as provided for in the contract.

13. McGavic obtained a default judgment on April 21, 2008.

14. McGavic garnished Defendant's Bank of America account for \$729.86 on June 2, 2008, resulting in fees penalties being assessed to Plaintiff's account.

15. Plaintiff brought a claim for damages against Defendant regarding its efforts to collect this debt.

16. On or about January 28, 2009 Plaintiff and Defendant entered into a Complete and Final Release of all Claims regarding Defendants efforts to collect the debt.

17. On or about February 11, 2009 Defendant obtained a second writ of garnishment for the same account Plaintiff entered into an accord and satisfaction with on January 24, 2008 and settled with Defendant on January 28, 2009.

18. As a direct and proximate result of Defendant's actions Plaintiff has suffered actual damages in the form of out of pocket costs, loss of the use of her money, and emotional distress, anger, anxiety, worry, frustration, among other negative emotions.

#### TRIAL BY JURY

19. Plaintiff is entitled to and hereby respectfully demands a trial by jury. US Const. amend. 7. Fed. R. Civ. Pro. 38.

#### CAUSES OF ACTION

#### COUNT I.

#### VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

#### 15 U.S.C. § 1692 *et seq.*

20. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

21. The foregoing acts and omissions of defendant constitute numerous and multiple violations of the FDCPA including, but not limited to, 15 U.S.C. § 1692d, 1692e, 1692e(5), 1692e(10), and 1692f.

22. As a result of defendant's violations of the FDCPA, plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3).

## COUNT II.

### UNLAWFUL DEBT COLLECTION PRACTICES ACT

23. Plaintiff incorporates by reference all of the paragraphs of this Complaint as though fully stated herein.

24. Defendant's actions constitute multiple violations of the UDCPA including but not limited to ORS 646.639(2)(f), (k).

25. As a result of such action plaintiff is entitled to actual damages and punitive damages in an amount to be determined at trial and injunctive relief pursuant to ORS 646.641.

### PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against defendant for:

## COUNT I.

### VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 *et seq.*

for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against each and every

COUNT II.

UDCPA

ORS 646.639 et seq

for an award of actual and punitive damages against each and every defendant in an amount to be determined at trial pursuant to ORS 646.641;

for an order enjoining each and every defendant from violating any provision of the UDCPA pursuant to ORS 646.641;

for attorney fees and the costs of litigation against each and every defendant pursuant to ORS 646.641.

DATED: March 19, 2009



Keith D. Karnes

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Attorney for Plaintiff Becki Ritterman